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10/657,524	09/08/2003	Daryl S. Meredith	TN-3481	9167

7590
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EXAMINER

DEXTER, CLARK F

ART UNIT

PAPER NUMBER

3724

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/657,524

Applicant(s)

MEREDITH, DARYL S.

Examiner

Clark F. Dexter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 17 is/are pending in the application.
- 4a) Of the above claim(s) 2-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6-9 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. The amendment filed on April 4, 2007 has been entered.

Claim Objections

2. Claims 1, 6-9 and 17 are objected to because of the following informalities:

In claim 1, line 18, the recitation "will contact" is not sufficiently clear, and it is suggested to change it to --contacts-- or the like.

Appropriate correction is required.

Claim Rejections - 35 USC § 112, 2nd paragraph

3. Claims 1, 6-9 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 18, the recitation "the auxiliary plane" lacks antecedent basis.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1 and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by European Publication 0 752 300 (hereafter EP '300).

EP '300 discloses a saw (e.g., see Figs. 1-13 and 21) with every structural limitation of the claimed invention including:

a base (e.g., 12) for supporting a workpiece;

a saw assembly (e.g., see col. 6, line 35 - col. 7, line 1) connected to the base, the saw assembly comprising a pivot arm, an upper blade guard (e.g., 18) connected to the pivot arm, a motor (e.g., 20) attached to the upper blade guard, and a blade (e.g., 16) driven by the motor, the saw assembly being movable between an upper position for not engaging the workpiece, and a lower position for engaging the workpiece (e.g., by the pivot located immediately below the motor 20 as viewed in Figure 1); and

a fence assembly attached to the base and disposed to one side of the blade, the fence assembly comprising a fixed fence (e.g., 48) fixedly attached to the base and disposed on the one side of the blade, a movable fence (e.g., 60) removably connected to the fixed fence (e.g., as shown in Figure 5) and disposed on the one side of the blade, the movable fence defining a first support plane, at least one of the fixed fence and the movable fence for contacting the workpiece, and an auxiliary fence (e.g., 80) disposed on the one side of the blade behind at least one of the fixed fence and the movable fence, the auxiliary fence being higher than the highest point on the fixed fence and defining a second support plane substantially parallel to the first support plane, so that when the movable fence (e.g., 60) is removed, no portion of the fence assembly

(e.g., 48, 60) is above the fixed fence (e.g., 48) and in front of the second support plane, allowing the auxiliary fence to contact the workpiece (e.g., the auxiliary fence 80 is fully capable of contacting a workpiece when the movable fence 60 is removed);

wherein a first line extending substantially perpendicular to the second support plane from the auxiliary plane (e.g., a first line extending perpendicularly from the surface on 80 from to which the lead line for 80 extends in Fig. 5) will contact the movable fence (e.g., 60) at a contact point, and a second line extending substantially parallel to the second support plane (e.g., a vertically-extending second line extending parallel to 80 as viewed in Fig. 5) from the fixed fence (e.g., 48) will intersect the first line.

It is noted that various types of workpieces will meet this claim; for example, an irregular shaped workpiece, a stepped workpiece, a generally L-shaped workpiece or the like, that includes a portion that rests on the workpiece support surface and another portion that extends to contact portion 80. Further, it is noted that component 60 could be pivoted out of the way of the workpiece so that the workpiece may contact surface 80, or it could be removed (or not installed at all) as suggested in col. 7, lines 31-32. It is emphasized that all of the above-described manipulations, including selection of workpiece configurations, can be performed without modifying the prior art device as disclosed in the prior art document, and thus are considered to be functional recitations of intended use of the prior art device.

Regarding claims 6-9, EP '300 discloses the saw with every structural limitation of the claimed invention as further defined including

[claim 6] wherein the fixed fence has a support surface (e.g., at 107);

[claim 7 (from 6)] wherein the support surface is substantially parallel to an upper surface of the base;

[claim 8 (from 6)] wherein the support surface is substantially perpendicular to the first support plane;

[claim 9] wherein the fixed fence has a surface (e.g., 63) which is substantially coplanar with the first support plane.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 6-9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al., pn 4,869,142 in view of O'Banion et al., pn 5,297,463 or European Publication 0 752 300 (hereafter EP '300).

Sato discloses a saw (e.g., see Fig. 9) with every structural limitation of the claimed invention including:

a base (e.g., 1) for supporting a workpiece;

a saw assembly connected to the base, the saw assembly comprising a pivot arm (e.g., 14), an upper blade guard (e.g., 26) connected to the pivot arm, a motor (e.g., 16) attached to the upper blade guard, and a blade (e.g., 17) driven by the motor, the

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saw assembly being movable between an upper position for not engaging the workpiece, and a lower position for engaging the workpiece; and

a fence assembly (e.g., 3) attached to the base and disposed to one side of the blade, the fence assembly comprising a fixed fence fixedly attached to the base and disposed on the one side of the blade, the fixed fence for contacting the workpiece, and an auxiliary fence (e.g., 37) disposed on the one side of the blade behind the fixed fence (i.e., when adjusted in such a manner), and above a portion of the fixed fence (e.g., to the same extent as the present invention meets this limitation), the auxiliary fence being higher than the highest point on the fixed fence and defining a second support plane substantially parallel to the first support plane and allowed to contact the workpiece;

wherein a first line extends substantially perpendicular to the second support plane from the auxiliary plane (e.g., a first line extending perpendicularly from the surface on the front of 37 in the perpendicular position as shown in solid lines in Fig. 17), and a second line extending substantially parallel to the second support plane (e.g., a horizontally-extending second line extending parallel to 3 as viewed in Fig. 17) from the fixed fence (e.g., 3) will intersect the first line.

Sato lacks a movable fence, particularly one that can be moved into a position to contact the first line as claimed. However, such movable fences are old and well known in the art and provide various well known benefits including configuring the fence assembly to correspond to a particular work piece and/or cutting operation. O'Banion et al. discloses one example of such a fence assembly configuration. EP '300 discloses

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another example of such a fence assembly configuration that clearly shows a movable fence (e.g., 32) that is removable. It is noted that claims 6-9 are met by either Sato or Sato modified by the known prior art including O'Banion or EP '300. Therefore, it would have been obvious to one having ordinary skill in the art to provide a movable fence on the fence assembly of Sato (e.g., by replacing fence 3 with a fence assembly such as that disclosed by O'Banion or EP '300) for the well known benefits including those described above.

Regarding claim 17, the distance between the first plane (defined by the movable fence which is the same plane as that defined by the fixed fence) and the second plane (defined by the auxiliary fence) is adjustable and thus is fully capable of being adjusted to the claimed distance.

Response to Arguments

8. Applicant's arguments filed April 4, 2007 have been fully considered but they are not persuasive. Applicant argues that the prior art does not meet the claims as amended. However, it is respectfully submitted that the prior art teaches or suggests all of the structure, recited explicitly or implicitly, of the claimed invention as described in further detail in the prior art rejections above. Applicant is welcome to telephone the Examiner to discuss any questions regarding this Office action.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Clark F. Dexter
Primary Examiner
Art Unit 3724

cfd
June 11, 2007